



## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Parts 52 and 81**

#### **[EPA-R04-OAR-2015-0275; FRL-9928-11-Region 4]**

### **Approval and Promulgation of Implementation Plans and Designation of Areas; North Carolina; Redesignation of the Charlotte-Rock Hill, 2008 8-Hour Ozone Nonattainment Area to Attainment**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** On April 16, 2015, the State of North Carolina, through the North Carolina Department of Environment and Natural Resources, Department of Air Quality (NC DAQ), submitted a request for the Environmental Protection Agency (EPA) to redesignate the portion of North Carolina that is within the bi-state Charlotte-Rock Hill, North Carolina-South Carolina 8-hour ozone nonattainment area (hereafter referred to as the “bi-state Charlotte Area,” or “Area”) to attainment for the 2008 8-hour ozone National Ambient Air Quality Standards (NAAQS) and to approve a State Implementation Plan (SIP) revision containing a maintenance plan for the Area. EPA is proposing to determine that the bi-State Charlotte Area is attaining the 2008 8-hour ozone NAAQS; to approve the State’s plan for maintaining attainment of the 2008 8-hour ozone standard in the Area, including the sub-area motor vehicle emission budgets (MVEBs) for nitrogen oxides (NO<sub>x</sub>) and volatile organic compounds (VOC) for the years 2014 and 2026 for North Carolina portion of the Area, into the SIP; and to redesignate the North Carolina portion of

the Area to attainment for the 2008 8-hour ozone NAAQS. EPA is also notifying the public of the status of EPA's adequacy determination for the sub-area MVEBs for the North Carolina portion of the bi-state Charlotte Area.

**DATES:** Comments must be received on or before [insert date 21 days after date of publication in the Federal Register].

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R04-OAR-2015-0275, by one of the following methods:

1. [www.regulations.gov](http://www.regulations.gov): Follow the on-line instructions for submitting comments.
2. E-mail: [R4-ARMS@epa.gov](mailto:R4-ARMS@epa.gov).
3. Fax: (404) 562-9019.
4. Mail: "EPA-R04-OAR-2015-0275," Air Regulatory Management Section (formerly the Regulatory Development Section), Air Planning and Implementation Branch (formerly the Air Planning Branch), Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960.
5. Hand Delivery or Courier: Ms. Lynorae Benjamin, Chief, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of

business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

*Instructions:* Direct your comments to Docket ID No. EPA-R04-OAR-2015-0275. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through [www.regulations.gov](http://www.regulations.gov) or e-mail, information that you consider to be CBI or otherwise protected. The [www.regulations.gov](http://www.regulations.gov) website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

*Docket:* All documents in the electronic docket are listed in the [www.regulations.gov](http://www.regulations.gov) index.

Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Sean Lakeman of the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Mr. Lakeman may be reached by phone at (404) 562-9043 or via electronic mail at [lakeman.sean@epa.gov](mailto:lakeman.sean@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

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- I. What are the Actions EPA is Proposing to Take?**

EPA is proposing to take the following three separate but related actions, one of which involves multiple elements: (1) to determine that the bi-Charlotte Area is attaining the 2008 8-hour ozone NAAQS; (2) to approve North Carolina's plan for maintaining the 2008 8-hour ozone NAAQS (maintenance plan), including the associated sub-area MVEBs for the North Carolina portion of the bi-state Charlotte Area, into the SIP; and (3) to redesignate the North Carolina portion of the bi-state Charlotte Area to attainment for the 2008 8-hour ozone NAAQS. EPA is also notifying the public of the status of EPA's adequacy determination for the sub-area MVEBs for the North Carolina portion of the bi-state Charlotte Area. The bi-state Charlotte Area consists of Mecklenburg County in its entirety and portions of Cabarrus, Gaston, Iredell, Lincoln, Rowan and Union Counties, North Carolina; and a portion of York County, South Carolina. On April 17, 2015, the State of South Carolina, through the South Carolina

Department of Health and Control (SC DHEC), provided a redesignation request and maintenance plan for its portion of the bi-state Charlotte Area. EPA will address South Carolina's request and maintenance plan in a separate action. These proposed actions are summarized below and described in greater detail throughout this notice of proposed rulemaking.

EPA is also making the preliminary determination that the bi-state Charlotte Area is attaining the 2008 8-hour ozone NAAQS based on recent air quality data and proposing to approve North Carolina's maintenance plan for its portion of the bi-state Charlotte Area as meeting the requirements of section 175A (such approval being one of the CAA criteria for redesignation to attainment status). The maintenance plan is designed to keep the bi-state Charlotte Area in attainment of the 2008 8-hour ozone NAAQS through 2026. The maintenance plan includes 2014 and 2026 sub-area MVEBs for NO<sub>x</sub> and VOC for the North Carolina portion of the bi-state Charlotte Area for transportation conformity purposes. EPA is proposing to approve these sub-area MVEBs and incorporate them into the North Carolina SIP.

EPA also proposes to determine that the North Carolina portion of the bi-state Charlotte Area has met the requirements for redesignation under section 107(d)(3)(E) of the CAA. Accordingly, in this action, EPA is proposing to approve a request to change the legal designation of Mecklenburg County in its entirety and the following portions of:

- Cabarrus County (Central Cabarrus Township, Concord Township, Georgeville Township, Harrisburg Township, Kannapolis Township, Midland Township, Mount Pleasant Township, New Gilead Township, Odell Township, Poplar Tent Township, Rimertown Township),
- Gaston County (Crowders Mountain Township, Dallas Township, Gastonia Township, Riverbend Township, South Point Township),

- Iredell County (Davidson Township, Coddle Creek Township),
- Lincoln County (Catawba Springs Township, Ironton Township, Lincolnton Township),
- Rowan County (Atwell Township, China Grove Township, Franklin Township, Gold Hill Township, Litaker Township, Locke Township, Providence Township, Salisbury Township, Steele Township, Unity Township), and
- Union County (Goose Creek Township, Marshville Township, Monroe Township, Sandy Ridge Township, Vance Township), in North Carolina from nonattainment to attainment for the 2008 8-hour ozone NAAQS.

EPA is also notifying the public of the status of EPA's adequacy process for the 2014 and 2026 NO<sub>x</sub> and VOC sub-area MVEBs for the North Carolina portion of the bi-state Charlotte Area. The Adequacy comment period began on March 17, 2015, with EPA's posting of the availability of North Carolina's submissions on EPA's Adequacy website (<http://www.epa.gov/otaq/stateresources/transconf/currps.htm#north-carolina>). The Adequacy comment period for these sub-area MVEBs closed on April 16, 2015. No comments, adverse or otherwise, were received through the Adequacy process. Please see section VII of this proposed rulemaking for further explanation of this process and for more details on the sub-area MVEBs.

In summary, this notice of proposed rulemaking is in response to North Carolina's April 16, 2015, redesignation request and associated SIP submission that address the specific issues summarized above and the necessary elements described in section 107(d)(3)(E) of the CAA for redesignation of the North Carolina portion of the bi-state Charlotte Area to attainment for the 2008 8-hour ozone NAAQS.

## **II. What is the Background for EPA's Proposed Actions?**

On March 12, 2008, EPA promulgated a revised 8-hour ozone NAAQS of 0.075 parts per million (ppm). *See* 73 FR 16436 (March 27, 2008). Under EPA's regulations at 40 CFR part 50, the 2008 8-hour ozone NAAQS is attained when the 3-year average of the annual fourth highest daily maximum 8-hour average ambient air quality ozone concentrations is less than or equal to 0.075 ppm. *See* 40 CFR 50.15. Ambient air quality monitoring data for the 3-year period must meet a data completeness requirement. The ambient air quality monitoring data completeness requirement is met when the average percent of days with valid ambient monitoring data is greater than 90 percent, and no single year has less than 75 percent data completeness as determined in Appendix I of part 50.

Upon promulgation of a new or revised NAAQS, the CAA requires EPA to designate as nonattainment any area that is violating the NAAQS, based on the three most recent years of complete, quality assured, and certified ambient air quality data at the conclusion of the designation process. The bi-state Charlotte Area was designated nonattainment for the 2008 8-hour ozone NAAQS on May 21, 2012 (effective July 20, 2012) using 2009-2011 ambient air quality data. *See* 77 FR 30088 (May 21, 2012). At the time of designation, the bi-state Charlotte Area was classified as a marginal nonattainment area for the 2008 8-hour ozone NAAQS. In the final implementation rule for the 2008 8-hour ozone NAAQS (SIP Implementation Rule),<sup>1</sup> EPA established ozone nonattainment area attainment dates based on

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<sup>1</sup> This rule, entitled Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements and published at 80 FR 12264 (March 6, 2015), addresses a range of nonattainment area SIP requirements for the 2008 ozone NAAQS, including requirements pertaining to attainment demonstrations, reasonable further progress (RFP), reasonably available control technology (RACT), reasonably



Table 1 of section 181(a) of the CAA. This established an attainment date three years after the July 20, 2012, effective date for areas classified as marginal areas for the 2008 8-hour ozone nonattainment designations. Therefore, the bi-state Charlotte Area's attainment date is July 20, 2015.

### **III. What are the Criteria for Redesignation?**

The CAA provides the requirements for redesignating a nonattainment area to attainment. Specifically, section 107(d)(3)(E) of the CAA allows for redesignation providing that: (1) the Administrator determines that the area has attained the applicable NAAQS; (2) the Administrator has fully approved the applicable implementation plan for the area under section 110(k); (3) the Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable SIP and applicable Federal air pollutant control regulations and other permanent and enforceable reductions; (4) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A; and, (5) the state containing such area has met all requirements applicable to the area for purposes of redesignation under section 110 and part D of the CAA.

On April 16, 1992, EPA provided guidance on redesignation in the General Preamble for the Implementation of title I of the CAA Amendments of 1990 (57 FR 13498), and supplemented

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available control measures (RACM), major new source review (NSR), emission inventories, and the timing of SIP submissions and of compliance with emission control measures in the SIP. This rule also addresses the revocation of the 1997 ozone NAAQS and the anti-backsliding requirements that apply when the 1997 ozone NAAQS are revoked.

this guidance on April 28, 1992 (57 FR 18070). EPA has provided further guidance on processing redesignation requests in the following documents:

1. “Ozone and Carbon Monoxide Design Value Calculations,” Memorandum from Bill Laxton, Director, Technical Support Division, June 18, 1990;
2. “Maintenance Plans for Redesignation of Ozone and Carbon Monoxide Nonattainment Areas,” Memorandum from G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, April 30, 1992;
3. “Contingency Measures for Ozone and Carbon Monoxide (CO) Redesignations,” Memorandum from G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, June 1, 1992;
4. “Procedures for Processing Requests to Redesignate Areas to Attainment,” Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (hereafter referred to as the “Calcagni Memorandum”);
5. “State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (CAA) Deadlines,” Memorandum from John Calcagni, Director, Air Quality Management Division, October 28, 1992;

6. “Technical Support Documents (TSDs) for Redesignation of Ozone and Carbon Monoxide (CO) Nonattainment Areas,” Memorandum from G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, August 17, 1993;
7. “State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) On or After November 15, 1992,” Memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation, September 17, 1993;
8. “Use of Actual Emissions in Maintenance Demonstrations for Ozone and CO Nonattainment Areas,” Memorandum from D. Kent Berry, Acting Director, Air Quality Management Division, November 30, 1993;
9. “Part D New Source Review (Part D NSR) Requirements for Areas Requesting Redesignation to Attainment,” Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, October 14, 1994; and
10. “Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard,” Memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, May 10, 1995.

#### **IV. Why is EPA Proposing These Actions?**

On April 16, 2015, the State of North Carolina, through NC DAQ, requested that EPA redesignate the North Carolina portion of the bi-state Charlotte Area to attainment for the 2008 8-hour ozone NAAQS. EPA's evaluation indicates that the entire bi-state Charlotte Area has attained the 2008 8-hour ozone NAAQS, and that the North Carolina portion of the bi-state Charlotte Area meets the requirements for redesignation as set forth in section 107(d)(3)(E), including the maintenance plan requirements under section 175A of the CAA. As a result, EPA is proposing to take the three related actions summarized in section I of this document.

#### **V. What is EPA's Analysis of the Request?**

As stated above, in accordance with the CAA, EPA proposes in this action to: (1) determine that the bi-state Charlotte Area is attaining the 2008 8-hour ozone NAAQS; (2) approve the North Carolina portion of the bi-state Charlotte Area's 2008 8-hour ozone NAAQS maintenance plan, including the associated sub-area MVEBs, into the North Carolina SIP; and (3) redesignate the North Carolina portion of the bi-state Charlotte Area to attainment for the 2008 8-hour ozone NAAQS. The five redesignation criteria provided under CAA section 107(d)(3)(E) are discussed in greater detail for the Area in the following paragraphs of this section.

##### **Criteria (1) - *The bi-state Charlotte Area has attained the 2008 8-hour ozone NAAQS.***

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the area has attained the applicable NAAQS (CAA section 107(d)(3)(E)(i)). For

ozone, an area may be considered to be attaining the 2008 8-hour ozone NAAQS if it meets the 2008 8-hour ozone NAAQS, as determined in accordance with 40 CFR 50.15 and Appendix I of part 50, based on three complete, consecutive calendar years of quality-assured air quality monitoring data. To attain the NAAQS, the 3-year average of the fourth-highest daily maximum 8-hour average ozone concentrations measured at each monitor within an area over each year must not exceed 0.075 ppm. Based on the data handling and reporting convention described in 40 CFR part 50, Appendix I, the NAAQS are attained if the design value is 0.075 ppm or below. The data must be collected and quality-assured in accordance with 40 CFR part 58 and recorded in the EPA Air Quality System (AQS). The monitors generally should have remained at the same location for the duration of the monitoring period required for demonstrating attainment.

In this action, EPA is preliminarily determining that the bi-state Charlotte Area is attaining the 2008 8-hour ozone NAAQS. EPA reviewed ozone monitoring data from monitoring stations in the bi-state Charlotte Area for the 2008 8-hour ozone NAAQS for 2012-2014. These data have been quality-assured, are recorded in Aerometric Information Retrieval System (AIRS-AQS), and indicate that the Area is attaining the 2008 8-hour ozone NAAQS. The fourth-highest 8-hour ozone values at each monitor for 2012, 2013, 2014, and the 3-year averages of these values (i.e., design values), are summarized in Table 1, below.

**Table 1. 2012 – 2014 Design Value Concentrations for the Bi-State Charlotte Area (parts per million)**

Location	County	Monitor ID	4th Highest 8-hour Ozone Value (ppm)			3-Year Design Values (ppm)
			2012	2013	2014	2012-2014
Lincoln County Replacing Iron Station	Lincoln	37-109-0004	0.076	0.064	0.064	0.068
Garinger High School	Mecklenburg	37-119-0041	0.080	0.067	0.065	0.070
Westinghouse Blvd	Mecklenburg	37-119-1005	0.073	0.062	0.063	0.066
29 N at Mecklenburg Cab Co.	Mecklenburg	37-119-1009	0.085	0.066	0.068	0.073
Rockwell	Rowan	37-159-0021	0.080	0.062	0.064	0.068
Enochville School*	Rowan	37-159-0022	0.077	0.063	----	-----
Monroe Middle School	Union	37-179-0003	0.075	0.062	0.067	0.068

\* Monitoring data for 2014 is not available because the monitor was shut down in 2014.

The 3-year design value for 2012-2014 for the bi-state Charlotte Area is 0.073 ppm,<sup>2</sup> which meets the NAAQS. In this action, EPA is proposing to determine that the bi-state Charlotte Area is attaining the 2008 8-hour ozone NAAQS. EPA will not take final action to approve the redesignation if the 3-year design value exceeds the NAAQS prior to EPA finalizing the redesignation. As discussed in more detail below, the State of North Carolina has committed to continue monitoring in this Area in accordance with 40 CFR part 58.

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<sup>2</sup> The monitor with the highest 3-year design value is considered the design value for the Area.

**Criteria (2) – North Carolina has a fully approved SIP under section 110(k) for the North Carolina Portion of the Charlotte Area; and Criteria (5) – North Carolina has met all applicable requirements under section 110 and part D of title I of the CAA.**

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the state has met all applicable requirements under section 110 and part D of title I of the CAA (CAA section 107(d)(3)(E)(v)) and that the state has a fully approved SIP under section 110(k) for the area (CAA section 107(d)(3)(E)(ii)). EPA proposes to find that North Carolina has met all applicable SIP requirements for the North Carolina portion of the Area under section 110 of the CAA (general SIP requirements) for purposes of redesignation. Additionally, EPA proposes to find that the North Carolina SIP satisfies the criterion that it meets applicable SIP requirements for purposes of redesignation under part D of title I of the CAA in accordance with section 107(d)(3)(E)(v). Further, EPA proposes to determine that the SIP is fully approved with respect to all requirements applicable for purposes of redesignation in accordance with section 107(d)(3)(E)(ii). In making these determinations, EPA ascertained which requirements are applicable to the Area and, if applicable, that they are fully approved under section 110(k). SIPs must be fully approved only with respect to requirements that were applicable prior to submittal of the complete redesignation request.

a. *The North Carolina portion of the bi-state Charlotte Area has met all applicable requirements under section 110 and part D of the CAA.*

*General SIP requirements.* General SIP elements and requirements are delineated in section 110(a)(2) of title I, part A of the CAA. These requirements include, but are not limited

to, the following: submittal of a SIP that has been adopted by the state after reasonable public notice and hearing; provisions for establishment and operation of appropriate procedures needed to monitor ambient air quality; implementation of a source permit program; provisions for the implementation of part C requirements (Prevention of Significant Deterioration (PSD)) and provisions for the implementation of part D requirements (NSR permit programs); provisions for air pollution modeling; and provisions for public and local agency participation in planning and emission control rule development.

Section 110(a)(2)(D) requires that SIPs contain certain measures to prevent sources in a state from significantly contributing to air quality problems in another state. To implement this provision, EPA has required certain states to establish programs to address the interstate transport of air pollutants. The section 110(a)(2)(D) requirements for a state are not linked with a particular nonattainment area's designation and classification in that state. EPA believes that the requirements linked with a particular nonattainment area's designation and classifications are the relevant measures to evaluate in reviewing a redesignation request. The transport SIP submittal requirements, where applicable, continue to apply to a state regardless of the designation of any one particular area in the state. Thus, EPA does not believe that the CAA's interstate transport requirements should be construed to be applicable requirements for purposes of redesignation.

In addition, EPA believes other section 110 elements that are neither connected with nonattainment plan submissions nor linked with an area's attainment status are applicable requirements for purposes of redesignation. The area will still be subject to these requirements after the area is redesignated. The section 110 and part D requirements which are linked with a



particular area's designation and classification are the relevant measures to evaluate in reviewing a redesignation request. This approach is consistent with EPA's existing policy on applicability (i.e., for redesignations) of conformity and oxygenated fuels requirements, as well as with section 184 ozone transport requirements. *See* Reading, Pennsylvania, proposed and final rulemakings (61 FR 53174-53176, October 10, 1996), (62 FR 24826, May 7, 2008); Cleveland-Akron-Loraine, Ohio, final rulemaking (61 FR 20458, May 7, 1996); and Tampa, Florida, final rulemaking at (60 FR 62748, December 7, 1995). *See also* the discussion on this issue in the Cincinnati, Ohio, redesignation (65 FR 37890, June 19, 2000), and in the Pittsburgh, Pennsylvania, redesignation (66 FR 50399, October 19, 2001).

*Title I, Part D, applicable SIP requirements.* Section 172(c) of the CAA sets forth the basic requirements of attainment plans for nonattainment areas that are required to submit them pursuant to section 172(b). Subpart 2 of part D, which includes section 182 of the CAA, establishes specific requirements for ozone nonattainment areas depending on the area's nonattainment classification. As provided in Subpart 2, a marginal ozone nonattainment area, such as the bi-state Charlotte Area, must submit an emissions inventory that complies with section 172(c)(3), but the specific requirements of section 182(a) apply in lieu of the demonstration of attainment (and contingency measures) required by section 172(c). 42 U.S.C. 7511a(a). A thorough discussion of the requirements contained in sections 172(c) and 182 can be found in the General Preamble for Implementation of Title I (57 FR 13498).

*Section 182(a) Requirements.* Section 182(a)(1) requires states to submit a comprehensive, accurate, and current inventory of actual emissions from sources of VOC and

NO<sub>x</sub> emitted within the boundaries of the ozone nonattainment area. North Carolina provided an emissions inventory for the bi-state Charlotte Area to EPA in a July 7, 2014 SIP submission. On April 21, 2015, EPA published a direct final rule to approve this emissions inventory into the SIP.<sup>3</sup> *See* 80 FR 22107 (direct final rule) and 80 FR 22147 (associated proposed rule). North Carolina's section 182(a)(1) inventory must be incorporated into the SIP before EPA can take final action to approve the State's redesignation request for the bi-state Charlotte Area.

Under section 182(a)(2)(A), states with ozone nonattainment areas that were designated prior to the enactment of the 1990 CAA amendments were required to submit, within six months of classification, all rules and corrections to existing VOC RACT rules that were required under section 172(b)(3) of the CAA (and related guidance) prior to the 1990 CAA amendments. On June 23, 1994, EPA determined that North Carolina met the section 182(a)(2) RACT "fix up" requirements. *See, e.g.*, 59 FR 32363.

Section 182(a)(2)(B) requires each state with a marginal ozone nonattainment area that implemented, or was required to implement, an inspection and maintenance (I/M) program prior to the 1990 CAA amendments to submit a SIP revision providing for an I/M program no less stringent than that required prior to the 1990 amendments or already in the SIP at the time of the amendments, whichever is more stringent. On June 2, 1995, EPA determined that North Carolina met requirements of section 182(a)(2)(B). *See* 60 FR 28720.

Regarding the permitting and offset requirements of section 182(a)(2)(C) and section 182(a)(4), North Carolina currently has a fully-approved part D NSR program in place.

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<sup>3</sup> This direct final rule is effective June 22, 2015, without further notice, unless EPA receives adverse comment by May 21, 2015. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the Federal Register informing the public that this rule will not take effect. The associated proposed rule will remain in effect.

However, EPA has determined that areas being redesignated need not comply with the requirement that a NSR program be approved prior to redesignation, provided that the area demonstrates maintenance of the NAAQS without part D NSR, because PSD requirements will apply after redesignation. A more detailed rationale for this view is described in a memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled, "Part D New Source Review Requirements for Areas Requesting Redesignation to Attainment." North Carolina's PSD program will become applicable in the bi-state Charlotte Area upon redesignation to attainment.

Section 182(a)(3) requires states to submit periodic inventories and emissions statements. Section 182(a)(3)(A) requires states to submit a periodic inventory every three years. As discussed below in the section of this document titled Criteria (4)(e), *Verification of Continued Attainment*, the State will continue to update its emissions inventory at least once every three years. Under section 182(a)(3)(B), each state with an ozone nonattainment area must submit a SIP revision requiring emissions statements to be submitted to the state by sources within that nonattainment area. North Carolina provided a SIP revision to EPA on July 7, 2014, addressing the section 182(a)(3)(B) emissions statements requirement, and on April 21, 2015, EPA published a direct final rule to approve this SIP revision.<sup>4</sup> See 80 FR 22107 (direct final rule) and 80 FR 22147 (associated proposed rule). North Carolina's emissions statements must be incorporated into the SIP before EPA can take final action to approve the State's redesignation request for the bi-state Charlotte Area.

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<sup>4</sup> This direct final rule is effective June 22, 2015, without further notice, unless EPA receives adverse comment by May 21, 2015. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the Federal Register informing the public that this rule will not take effect. The associated proposed rule will remain in effect.

*Section 176 Conformity Requirements.* Section 176(c) of the CAA requires states to establish criteria and procedures to ensure that federally supported or funded projects conform to the air quality planning goals in the applicable SIP. The requirement to determine conformity applies to transportation plans, programs, and projects that are developed, funded, or approved under title 23 of the United States Code (U.S.C.) and the Federal Transit Act (transportation conformity) as well as to all other federally supported or funded projects (general conformity). State transportation conformity SIP revisions must be consistent with Federal conformity regulations relating to consultation, enforcement, and enforceability that EPA promulgated pursuant to its authority under the CAA.

EPA interprets the conformity SIP requirements<sup>5</sup> as not applying for purposes of evaluating a redesignation request under section 107(d) because state conformity rules are still required after redesignation and Federal conformity rules apply where state rules have not been approved. *See Wall v. EPA*, 265 F.3d 426 (6<sup>th</sup> Cir. 2001) (upholding this interpretation); *see also* 60 FR 62748 (December 7, 1995) (redesignation of Tampa, Florida). Nonetheless, North Carolina has an approved conformity SIP for the Charlotte Area. *See* 78 FR 73266 (February 24, 2014). Thus, the North Carolina portion of the bi-state Charlotte Area has satisfied all applicable requirements for purposes of redesignation under section 110 and part D of title I of the CAA.

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<sup>5</sup> CAA section 176(c)(4)(E) requires states to submit revisions to their SIPs to reflect certain Federal criteria and procedures for determining transportation conformity. Transportation conformity SIPs are different from the MVEBs that are established in control strategy SIPs and maintenance plans.

b. The North Carolina portion of the bi-state Charlotte Area has a fully approved applicable SIP under section 110(k) of the CAA.

EPA has fully approved the applicable North Carolina SIP for the bi-state Charlotte Area under section 110(k) of the CAA for all requirements applicable for purposes of redesignation. EPA may rely on prior SIP approvals in approving a redesignation request (*see* Calcagni Memorandum at p. 3; *Southwestern Pennsylvania Growth Alliance v. Browner*, 144 F.3d 984, 989-90 (6th Cir. 1998); *Wall*, 265 F.3d 426) plus any additional measures it may approve in conjunction with a redesignation action (*see* 68 FR 25426 (May 12, 2003) and citations therein). North Carolina has adopted and submitted, and EPA has fully approved at various times, provisions addressing the various SIP elements applicable for the ozone NAAQS. *See* 77 FR 5703 (February 6, 2012).

As indicated above, EPA believes that the section 110 elements that are neither connected with nonattainment plan submissions nor linked to an area's nonattainment status are not applicable requirements for purposes of redesignation. EPA has approved all part D requirements applicable for purposes of this redesignation. As noted above, this action to propose approval of North Carolina's redesignation request for the North Carolina portion of the bi-state Charlotte Area is contingent upon EPA taking final action to approve the July, 7, 2014, emissions inventory and emissions statements SIP revision, which was published as direct final and proposed rules on April 21, 2015. *See* 80 FR 22107 and 80 FR 22147.

***Criteria (3) - The air quality improvement in the bi-state Charlotte Area is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP and applicable Federal air pollution control regulations and other permanent and enforceable reductions.***

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the air quality improvement in the area is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP, applicable Federal air pollution control regulations, and other permanent and enforceable reductions (CAA section 107(d)(3)(E)(iii)). EPA has preliminarily determined that North Carolina has demonstrated that the observed air quality improvement in the bi-state Charlotte Area is due to permanent and enforceable reductions in emissions resulting from Federal measures and from state measures adopted into the SIP. EPA does not have any information to suggest that the decrease in ozone concentrations in the bi-state Charlotte Area is due to unusually favorable meteorological conditions.

State and Federal measures enacted in recent years have resulted in permanent emission reductions. Most of these emission reductions are enforceable through regulations. A few non-regulatory measures also result in emission reductions. The state and local measures that have been implemented to date and relied upon by North Carolina to demonstrate attainment and/or maintenance include the Clean Air Bill I/M program and North Carolina's Clean Smokestacks Act. These measures are approved in the federally-approved SIP and thus are permanent and enforceable. The Federal measures that have been implemented include the following:

*Tier 2 vehicle and fuel standards.* Implementation began in 2004 and requires all passenger vehicles in any manufacturer's fleet to meet an average standard of 0.07 grams of NOx per mile. Additionally, in January 2006 the sulfur content of gasoline was required to be on average 30 ppm which assists in lowering the NOx emissions. Most gasoline sold in North Carolina prior to January 2006 had a sulfur content of about 300 ppm.<sup>6</sup>

*Large non-road diesel engines rule.* This rule was promulgated in 2004, and is being phased in between 2008 through 2014. This rule will also reduce the sulfur content in the nonroad diesel fuel. When fully implemented, this rule will reduce NOx, VOC, particulate matter, and carbon monoxide. These emission reductions are federally enforceable. EPA issued this rule in June 2004, which applies to diesel engines used in industries, such as construction, agriculture, and mining. It is estimated that compliance with this rule will cut NOx emissions from non-road diesel engines by up to 90 percent nationwide. The non-road diesel rule was fully implemented by 2010.

*Heavy-duty gasoline and diesel highway vehicle standards.* EPA issued this rule in January 2001 (66 FR 5002). This rule includes standards limiting the sulfur content of diesel fuel, which went into effect in 2004. A second phase took effect in 2007, which further reduced the highway diesel fuel sulfur content to 15 ppm, leading to additional reductions in combustion NOx and VOC emissions. This rule is expected to achieve a 95 percent reduction in NOx emissions from diesel trucks and buses.

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<sup>6</sup> North Carolina also identified Tier 3 Motor Vehicle Emissions and Fuel Standards as a federal measure. EPA issued this rule in April 28, 2014, which applies to light duty passenger cars and trucks. EPA promulgated this rule to reduce air pollution from new passenger cars and trucks beginning in 2017. Tier 3 emission standards will lower sulfur content of gasoline and lower the emissions standards.

*Medium and heavy duty vehicle fuel consumption and GHG standards.* These standards require on-road vehicles to achieve a 7 percent to 20 percent reduction in CO<sub>2</sub> emissions and fuel consumption by 2018. The decrease in fuel consumption will result in a 7 percent to 20 percent decrease in NO<sub>x</sub> emissions.

*Nonroad spark-ignition engines and recreational engines standards.* The nonroad spark-ignition and recreational engine standards, effective in July 2003, regulate NO<sub>x</sub>, hydrocarbons, and carbon monoxide from groups of previously unregulated nonroad engines. These engine standards apply to large spark-ignition engines (e.g., forklifts and airport ground service equipment), recreational vehicles (e.g., off-highway motorcycles and all-terrain-vehicles), and recreational marine diesel engines sold in the United States and imported after the effective date of these standards. When all of the nonroad spark-ignition and recreational engine standards are fully implemented, an overall 72 percent reduction in hydrocarbons, 80 percent reduction in NO<sub>x</sub>, and 56 percent reduction in carbon monoxide emissions are expected by 2020. These controls reduce ambient concentrations of ozone, carbon monoxide, and fine particulate matter.

*National Program for greenhouse gas (GHG) emissions and Fuel Economy Standards.* The federal GHG and fuel economy standards apply to light-duty cars and trucks in model years 2012-2016 (phase 1) and 2017-2025 (phase 2). The final standards are projected to result in an average industry fleet-wide level of 163 grams/mile of carbon dioxide (CO<sub>2</sub>) which is equivalent to 54.5 miles per gallon (mpg) if achieved exclusively through fuel economy improvements. The fuel economy standards result in less fuel being consumed, and therefore less NO<sub>x</sub> emissions released.



*Tennessee Valley Authority (TVA) Consent Decree/Federal Facilities Compliance Agreement.* On April 14, 2011, TVA entered into a consent decree with Tennessee, Alabama, Kentucky, and North Carolina to resolve allegations of CAA violations at TVA's coal-fired power plants. The relief obtained in this consent decree was also secured in a Federal Facilities Compliance Agreement (FFCA) between EPA and TVA. The consent decree and FFCA establish system-wide caps on NO<sub>x</sub> and SO<sub>2</sub> emissions at TVA's coal-fired facilities, declining to permanent levels of 52,000 tons of NO<sub>x</sub> in 2018 and 110,000 tons of SO<sub>2</sub> in 2019, and require TVA to meet specific control requirements.<sup>7</sup>

*Reciprocating Internal Combustion Engine (RICE) National Emissions Standards for Hazardous Air Pollutants (NESHAP).*<sup>8</sup> The RICE NESHAP is expected to result in a small decrease in VOC emissions. RICE owners and operators had to comply with the NESHAP by May 3, 2013.

*Utility Mercury Air Toxics Standards (MATS) and New Source Performance Standards (NSPS).* On February 16, 2012, EPA promulgated maximum achievable control technology regulations for coal-and oil-fired EGUs, intended to reduce hazardous air pollutants emissions from EGUs. Although the MATS rule is not targeted at NO<sub>x</sub> emissions, it is expected to result in additional NO<sub>x</sub> reductions due to the retirement of older coal-fired units.

*NO<sub>x</sub> SIP Call.* On October 27, 1998 (63 FR 57356), EPA issued the NO<sub>x</sub> SIP Call requiring the District of Columbia and 22 states to reduce emissions of NO<sub>x</sub>, a precursor to

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<sup>7</sup> EPA notes that there are no sources covered by the consent decree/FFCA in North Carolina. Although the bi-state Charlotte Area may get residual benefits from the implementation of consent decree/FFCA, EPA does not believe these measures are needed for the bi-state Charlotte Area to attain or maintain the 2008 8-hour ozone NAAQS.

<sup>8</sup> North Carolina also identified the NESHAP for industrial, commercial and institutional boilers as a federal measure. This NESHAP is also expected to result in a small decrease in VOC emissions. Boilers must comply with the NESHAP by January 31, 2016, for all states except North Carolina which has a compliance date in May 2019.

ozone pollution, and providing a mechanism (the NOx Budget Trading Program) that states could use to achieve those reductions. Affected states were required to comply with Phase I of the SIP Call beginning in 2004 and Phase II beginning in 2007. By the end of 2008, ozone season emissions from sources subject to the NOx SIP Call dropped by 62 percent from 2000 emissions levels. All NOx SIP Call states have SIPs that currently satisfy their obligations under the NOx SIP Call; the NOx SIP Call reduction requirements are being met; and EPA will continue to enforce the requirements of the NOx SIP Call. Emission reductions resulting from regulations developed in response to the NOx SIP Call are therefore permanent and enforceable for the purposes of this action. There are four facilities located within the North Carolina portion of the Area that are subject to the NOx SIP Call. These facilities are located in Gaston, Lincoln, and Rowan Counties. Two coal-fired power plants (Buck and Riverbend) were retired on April 1, 2013, which resulted in additional emissions reductions. There is also a facility west of the Area, Cliffside, located in Cleveland County, and a facility north of the Area, Marshall, located in Catawba County which are also subject to the NOx SIP Call.

*CAIR/CSAPR.* CAIR created regional cap-and-trade programs to reduce SO<sub>2</sub> and NOx emissions in 27 eastern states, including North Carolina. *See* 70 FR 25162 (May 12, 2005). EPA approved North Carolina's CAIR regulations into the North Carolina SIP on October 5, 2007. *See* 72 FR 56914. In 2009, the CAIR ozone season NOx trading program superseded the NOx Budget Trading Program, although the emission reduction obligations of the NOx SIP Call were not rescinded. *See* 40 CFR 51.121(r) and 51.123(aa). In 2008, the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) initially vacated CAIR, *North Carolina v. EPA*, 531 F.3d 896 (D.C. Cir. 2008), but ultimately remanded the rule to EPA

without vacatur to preserve the environmental benefits provided by CAIR, *North Carolina v. EPA*, 550 F.3d 1176, 1178 (D.C. Cir. 2008). On August 8, 2011 (76 FR 48208), acting on the D.C. Circuit's remand, EPA promulgated CSAPR to address interstate transport of emissions and resulting secondary air pollutants and to replace CAIR. CSAPR requires substantial reductions of SO<sub>2</sub> and NO<sub>x</sub> emissions from electric generating units (EGUs) in 28 states in the Eastern United States.

Implementation of CSAPR was scheduled to begin on January 1, 2012, when CSAPR's cap-and-trade programs would have superseded the CAIR cap and trade programs. Numerous parties filed petitions for review of CSAPR, and on December 30, 2011, the D.C. Circuit Court issued an order staying CSAPR pending resolution of the petitions and directing EPA to continue to administer CAIR. *EME Homer City Generation, L.P. v. EPA*, No. 11–1302 (D.C. Cir. Dec. 30, 2011), Order at 2.

On August 21, 2012, the D.C. Circuit issued its ruling, vacating and remanding CSAPR to EPA and once again ordering continued implementation of CAIR. *EME Homer City Generation, L.P. v. EPA*, 696 F.3d 7, 38 (D.C. Cir. 2012). The D.C. Circuit subsequently denied EPA's petition for rehearing en banc. *EME Homer City Generation, L.P. v. EPA*, No. 11–1302, 2013 WL 656247 (D.C. Cir. Jan. 24, 2013), at \*1. EPA and other parties then petitioned the Supreme Court for a writ of certiorari, and the Supreme Court granted the petitions on June 24, 2013. *EPA v. EME Homer City Generation, L.P.*, 133 S. Ct. 2857 (2013).

On April 29, 2014, the Supreme Court vacated and reversed the D.C. Circuit's decision regarding CSAPR, and remanded that decision to the D.C. Circuit Court to resolve remaining issues in accordance with its ruling. *EPA v. EME Homer City Generation, L.P.*, 134 S. Ct. 1584

(2014). EPA moved to have the stay of CSAPR lifted in light of the Supreme Court decision. *EME Homer City Generation, L.P. v. EPA*, Case No. 11–1302, Document No. 1499505 (D.C. Cir. filed June 26, 2014). In its motion, EPA asked the D.C. Circuit to toll CSAPR’s compliance deadlines by three years so that the Phase 1 emissions budgets apply in 2015 and 2016 (instead of 2012 and 2013), and the Phase 2 emissions budgets apply in 2017 and beyond (instead of 2014 and beyond). On October 23, 2014, the D.C. Circuit granted EPA’s motion and lifted the stay of CSAPR which was imposed on December 30, 2011. *EME Homer City Generation, L.P. v. EPA*, No. 11–1302 (D.C. Cir. Oct. 23, 2014), Order at 3. On December 3, 2014, EPA issued an interim final rule to clarify how EPA will implement CSAPR consistent with the D.C. Circuit Court’s order granting EPA’s motion requesting lifting the stay and tolling the rule’s deadlines. *See* 79 FR 71663 (December 3, 2014) (interim final rulemaking). Consistent with that rule, EPA began implementing CSAPR on January 1, 2015. EPA expects that the implementation of CSAPR will preserve the reductions achieved by CAIR and result in additional SO<sub>2</sub> and NO<sub>x</sub> emission reductions throughout the maintenance period.

As mentioned above, the State measures that have been implemented include the following:

*Vehicle Emissions Inspection and Maintenance (I/M) Program.* In 1999, the North Carolina State Legislation passed the Clean Air Bill that expanded the on-road vehicle I/M program from 9 to 48 counties. It was phased-in in the Charlotte nonattainment area from July 1, 2002, through January 1, 2004. This program reduces NO<sub>x</sub>, VOC, and CO emissions. The I/M program was submitted to EPA for adoption into the SIP in August 2002 and was federally

approved in October 2002. Therefore, these emission reductions are both state and federally enforceable.

On February 5, 2015, EPA approved a change to North Carolina's I/M rules triggered by a state law which exempted plug-in vehicles and the three newest model year vehicles with less than 70,000 miles on their odometers from emission inspection in all areas in North Carolina where I/M is required. In North Carolina's section 110(l) demonstration, the State showed that the change in the compliance rate from 95 percent to 96 percent more than compensates for the NO<sub>x</sub> and VOC emissions increase. EPA-approved change to the I/M rules was effective March 9, 2015, and are state and federally enforceable.

*Clean Smokestacks Act.* This state law requires coal-fired power plants to reduce annual NO<sub>x</sub> emissions by 77 percent by 2009, and to reduce annual SO<sub>2</sub> emissions by 49 percent by 2009 and 73 percent by 2013. This law set a NO<sub>x</sub> emissions cap of 56,000 tons/year for 2009 and SO<sub>2</sub> emissions caps of 250,000 tons/year and 130,000 tons/year for 2009 and 2013, respectively. The public utilities cannot meet these emission caps by purchasing emission credits. EPA approved the statewide emissions caps as part of the North Carolina SIP on September 26, 2011. In 2013, the power plants subject to this law had combined NO<sub>x</sub> emissions of 38,857 tons per year, well below the 56,000 tons per year cap. The emissions cap has been met in all subsequent years as well and is enforceable at both the federal and state level.

***Criteria (4) - The North Carolina portion of the Area has a fully approved maintenance plan pursuant to section 175A of the CAA.***

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the area has a fully approved maintenance plan pursuant to section 175A of the CAA (CAA section 107(d)(3)(E)(iv)). In conjunction with its request to redesignate the North Carolina portion of the bi-state Charlotte Area to attainment for the 2008 8-hour ozone NAAQS, NC DAQ submitted a SIP revision to provide for the maintenance of the 2008 8-hour ozone NAAQS for at least 10 years after the effective date of redesignation to attainment. EPA believes that this maintenance plan meets the requirements for approval under section 175A of the CAA.

*a. What is required in a maintenance plan?*

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the plan must demonstrate continued attainment of the applicable NAAQS for at least 10 years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, the state must submit a revised maintenance plan demonstrating that attainment will continue to be maintained for the 10 years following the initial 10-year period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures as EPA deems necessary to assure prompt correction of any future 2008 8-hour ozone violations. The Calcagni Memorandum provides further guidance on the content of a maintenance plan, explaining that a maintenance plan should address five requirements: the attainment emissions inventory,

maintenance demonstration, monitoring, verification of continued attainment, and a contingency plan. As is discussed more fully below, EPA has preliminarily determined that North Carolina's maintenance plan includes all the necessary components and is thus proposing to approve it as a revision to the North Carolina SIP.

*b. Attainment Emissions Inventory*

EPA is proposing to determine that the bi-state Charlotte Area has attained the 2008 8-hour ozone NAAQS based on quality-assured monitoring data for the 3-year period from 2012-2014. North Carolina selected 2014 as the base year (i.e., attainment emissions inventory year) for developing a comprehensive emissions inventory for NO<sub>x</sub> and VOC, for which projected emissions could be developed for 2015, 2018, 2022, and 2026. The attainment inventory identifies a level of emissions in the Area that is sufficient to attain the 2008 8-hour ozone NAAQS. North Carolina began development of the attainment inventory by first generating a baseline emissions inventory for the State's portion of the bi-state Charlotte Area. The projected summer day emission inventories have been estimated using projected rates of growth in population, traffic, economic activity, and other parameters. Naturally occurring emissions (i.e., biogenic emissions) are not included in the emissions inventory comparison, as these emissions are outside the State's control. In addition to comparing the final year of the plan (2026) to the base year (2014), North Carolina compared interim years to the baseline to demonstrate that these years are also expected to show continued maintenance of the 2008 8-hour ozone standard.

The emissions inventory is composed of four major types of sources: point, area, on-road mobile, and non-road mobile. The complete descriptions of how the inventories were developed

are discussed in the Appendix B of the April 16, 2015, submittal, which can be found in the docket for this action. Point source emissions are tabulated from data collected by direct on-site measurements of emissions or from mass balance calculations utilizing emission factors from EPA's AP-42 or stack test results. For each projected year's inventory, point sources are adjusted by growth factors based on Standard Industrial Classification codes generated using growth patterns obtained from County Business Patterns. For the electric generating utility sources, the estimated projected future year emissions were based on information provided by the utility company. For the sources that report to the EPA's Clean Air Markets Division, the actual 2014 average July day emissions were used. For the other Title V sources, the latest data available (2013) was used to represent 2014 base year emissions. For sources emitting less than 25 tons per year and subject to the emissions statement requirements, the most recently reported data (2013) was used to represent 2014 base year emissions. For the small sources that only report emissions every 5 years, the most recently reported data (2013) was used to represent 2014 base year emission, since emissions from these sources do not vary much from year to year. Rail yard and airport emissions reported were obtained from the EPA's 2011 National Emission Inventory.

For area sources, emissions are estimated by multiplying an emission factor by some known indicator of collective activity such as production, number of employees, or population. For each projected year's inventory, area source emissions are changed by population growth, projected production growth, or estimated employment growth.

The non-road mobile sources emissions are calculated using EPA's NONROAD2008a model, with the exception of the railroad locomotives which were estimated by taking activity



and multiplying by an emission factor. For each projected year's inventory, the emissions are estimated using EPA's NONROAD2008a model with activity input such as projected landing and takeoff data for aircraft.

For on-road mobile sources, EPA's Motor Vehicle Emission Simulator (MOVES2014) mobile model is run to generate emissions. The MOVES2014 model includes the road class vehicle miles traveled (VMT) as an input file and can directly output the estimated emissions. For each projected year's inventory, the on-road mobile sources emissions are calculated by running the MOVES mobile model for the future year with the projected VMT to generate emissions that take into consideration expected Federal tailpipe standards, fleet turnover, and new fuels.

The 2014 NO<sub>x</sub> and VOC emissions for the North Carolina portion of the bi-state Charlotte Area, as well as the emissions for other years, were developed consistent with EPA guidance and are summarized in Tables 2 through 4 of the following subsection discussing the maintenance demonstration. See Appendix B of the April 16, 2015, submission for more detailed information on the emissions inventory.

*c. Maintenance Demonstration*

The maintenance plan associated with the redesignation request includes a maintenance demonstration that:

- (i) Shows compliance with and maintenance of the 2008 8-hour ozone NAAQS by providing information to support the demonstration that current and future emissions of NO<sub>x</sub> and VOC remain at or below 2014 emissions levels.

(ii) Uses 2014 as the attainment year and includes future emissions inventory projections for 2015, 2018, 2022, and 2026.

(iii) Identifies an “out year” at least 10 years after the time necessary for EPA to review and approve the maintenance plan. Per 40 CFR part 93, NO<sub>x</sub> and VOC MVEBs were established for the last year (2026) of the maintenance plan (see section VII below).

Additionally, NC DAQ opted to establish sub-area MVEBs for an interim year (2014).

(iv) Provides actual (2014) and projected emissions inventories, in tons per day (tpd), for the North Carolina portion of the bi-state Charlotte Area, as shown in Tables 2 through 4, below.

**Table 2. Actual and Projected Annual NO<sub>x</sub> Emissions (tpd) for the North Carolina Portion of the Bi-state Charlotte Area**

<b>Sector</b>	<b>2014</b>	<b>2015</b>	<b>2018</b>	<b>2022</b>	<b>2026</b>
<b>Point</b>	32.38	34.47	29.28	36.33	26.75
<b>Area</b>	11.40	11.28	11.28	11.31	11.28
<b>Non-road</b>	26.26	24.35	19.79	16.07	14.03
<b>On-road</b>	60.15	53.97	33.92	22.94	15.47
<b>Total</b>	<b>130.18</b>	<b>124.07</b>	<b>94.27</b>	<b>86.65</b>	<b>67.53</b>

**Table 3. Actual and Projected Annual VOC Emissions (tpd) for the North Carolina Portion of the Bi-state Charlotte Area**

<b>Sector</b>	<b>2014</b>	<b>2015</b>	<b>2018</b>	<b>2022</b>	<b>2026</b>
<b>Point</b>	12.03	12.42	13.62	14.36	15.33
<b>Area</b>	47.88	48.26	49.39	50.87	52.28
<b>Non-road</b>	18.89	18.17	17.08	17.04	17.55
<b>On-road</b>	34.32	31.82	23.94	19.16	14.98
<b>Total</b>	<b>113.12</b>	<b>110.67</b>	<b>104.03</b>	<b>101.43</b>	<b>100.14</b>

**Table 4. Emission Estimates for the North Carolina Portion of the Bi-state Charlotte Area**

<b>Year</b>	<b>VOC (tpd)</b>	<b>NOx (tpd)</b>
<b>2014</b>	113.12	130.18
<b>2015</b>	110.67	124.07
<b>2018</b>	104.03	94.27
<b>2022</b>	101.43	86.65
<b>2026</b>	100.14	67.53
<b>Difference from 2014 to 2026</b>	<b>-12.98</b>	<b>-62.65</b>

In situations where local emissions are the primary contributor to nonattainment, such as the bi-state Charlotte Area, if the future projected emissions in the nonattainment area remain at or below the baseline emissions in the nonattainment area, then the ambient air quality standard should not be exceeded in the future. North Carolina has projected emissions as described previously and determined that emissions in the North Carolina portion of the bi-state Charlotte Area will remain below those in the attainment year inventory for the duration of the maintenance plan.

As discussed in section VI of this proposed rulemaking, a safety margin is the difference between the attainment level of emissions (from all sources) and the projected level of emissions (from all sources) in the maintenance plan. The attainment level of emissions is the level of emissions during one of the years in which the area met the NAAQS. North Carolina selected 2014 as the attainment emissions inventory year for the North Carolina portion of the bi-state Charlotte Area. North Carolina calculated safety margins in its submittal for years 2015, 2018, 2022, and 2026. Because the initial sub-area MVEB year of 2014 is also the base year for the maintenance plan inventory, there is no safety margin, therefore, no adjustments were made to the sub-area MVEBs for 2014. The State has allocated a portion of the 2026 safety margin to the 2026 sub-area MVEBs for the bi-state Charlotte Area.

**Table 5. Safety Margins for the North Carolina Portion of the Bi-state Charlotte Area**

<b>Year</b>	<b>VOC (tpd)</b>	<b>NOx (tpd)</b>
<b>2015</b>	-2.45	-6.11
<b>2018</b>	-9.09	-35.91
<b>2022</b>	-11.69	-43.53
<b>2026</b>	-12.98	-62.65

The State has decided to allocate a portion of the 2026 safety margin to the 2026 sub-area MVEBs to allow for unanticipated growth in VMT, changes and uncertainty in vehicle mix assumptions, etc, that will influence the emission estimations. NC DAQ developed and implemented a five-step approach for determining a factor to use to calculate the amount of safety margin to apply to the sub-area MVEBs. Based on this approach, NC DAQ has allocated 2.93 tpd (2650 kg/day) to the 2026 NOx MVEB and 2.83 tpd (2,569 kg/day) to the 2026 VOC MVEB. After allocation of the available safety margin, the remaining safety margin was calculated as 59.72 tpd for NOx and 10.15 tpd for VOC. This allocation and the resulting available safety margin for the North Carolina portion of the bi-state Charlotte Area are discussed further in section VI of this proposed rulemaking along with the sub-area MVEBs to be used for transportation conformity proposes.

*d. Monitoring Network*

There are currently seven monitors measuring ozone in the North Carolina portion of the bi-state Charlotte Area. NC DAQ operates four of the monitors in the Area, whereas the Mecklenburg County Air Quality (MCAQ) Office operates three of the monitors in Mecklenburg County. The State of North Carolina, through NC DAQ, has committed to continue operation of all monitors in the North Carolina portion of the bi-state Charlotte Area in compliance with 40

CFR part 58 and have thus addressed the requirement for monitoring. EPA approved North Carolina's monitoring plan on November 25, 2013.

*e. Verification of Continued Attainment*

The State of North Carolina, through NC DAQ, has the legal authority to enforce and implement the maintenance plan for the North Carolina portion of the Area. This includes the authority to adopt, implement, and enforce any subsequent emissions control contingency measures determined to be necessary to correct future ozone attainment problems.

Large stationary sources are required to submit an emissions inventory annually to NC DAQ or MCAQ. NC DAQ commits to review these emissions inventories to determine if any unexpected growth in NO<sub>x</sub> emissions in the Area may endanger the maintenance of the 2008 8-hour ozone NAAQS. Additionally, as new VMT data are provided by the North Carolina Department of Transportation (NC DOT), NC DAQ commits to review these data and determine if any unexpected growth in VMT may endanger the maintenance of the 2008 8-hour ozone NAAQS.

Additionally, under the Consolidated Emissions Reporting Rule (CERR) and Air Emissions Reporting Requirements (AERR), NC DAQ is required to develop a comprehensive, annual, statewide emissions inventory every three years that is due twelve to eighteen months after the completion of the inventory year. The AERR inventory years match the base year and final year of the inventory for the maintenance plan, and are within one or two years of the interim inventory years of the maintenance plan. Therefore, NC DAQ commits to compare the CERR and AERR inventories as they are developed with the maintenance plan to determine if additional steps are necessary for continued maintenance of the 2008 8-hour ozone NAAQS in this Area.

*f. Contingency Measures in the Maintenance Plan.*

Section 175A of the CAA requires that a maintenance plan include such contingency measures as EPA deems necessary to assure that the state will promptly correct a violation of the NAAQS that occurs after redesignation. The maintenance plan should identify the contingency measures to be adopted, a schedule and procedure for adoption and implementation, and a time limit for action by the state. A state should also identify specific indicators to be used to determine when the contingency measures need to be implemented. The maintenance plan must include a requirement that a state will implement all measures with respect to control of the pollutant that were contained in the SIP before redesignation of the area to attainment in accordance with section 175A(d).

In the April 16, 2015, submittal, North Carolina affirms that all programs instituted by the State and EPA will remain enforceable and that sources are prohibited from reducing emissions controls following the redesignation of the Area. The contingency plan included in the submittal includes a triggering mechanism to determine when contingency measures are needed and a process of developing and implementing appropriate control measures. The primary trigger of the contingency plan will be a violation of the 2008 8-hour ozone NAAQS (i.e., when the three-year average of the 4th highest values is equal to or greater than 0.076 ppm at a monitor in the Area). The trigger date will be 60 days from the date that the State observes a 4th highest value that, when averaged with the two previous ozone seasons' fourth highest values, would result in a three-year average equal to or greater than 0.076 ppm.

The secondary trigger will apply where no actual violation of the 2008 8-hour ozone NAAQS has occurred, but where the State finds monitored ozone levels indicating that an actual

ozone NAAQS violation may be imminent. A pattern will be deemed to exist when there are two consecutive ozone seasons in which the 4th highest values are 0.076 ppm or greater at a single monitor within the Area. The trigger date will be 60 days from the date that the State observes a 4th highest value of 0.076 ppm or greater at a monitor for which the previous season had a 4th highest value of 0.076 ppm or greater.

Once the primary or secondary trigger is activated, the Planning Section of the NC DAQ, in consultation with SC DHEC and MCAQ, shall commence analyses including trajectory analyses of high ozone days and an emissions inventory assessment to determine those emission control measures that will be required for attaining or maintaining the 2008 8-hour ozone NAAQS. By May 1 of the year following the ozone season in which the primary or secondary trigger has been activated, North Carolina will complete sufficient analyses to begin adoption of necessary rules for ensuring attainment and maintenance of the 2008 8-hour ozone NAAQS. The rules would become State effective by the following January 1, unless legislative review is required.

At least one of the following contingency measures will be adopted and implemented upon a primary triggering event:

- NO<sub>x</sub> Reasonably Available Control Technology on stationary sources with a potential to emit less than 100 tons per year in the North Carolina portion of the Charlotte nonattainment area;
- diesel inspection and maintenance program;
- implementation of diesel retrofit programs, including incentives for performing retrofits;
- additional controls in upwind areas.

The NC DAQ commits to implement within 24 months of a primary or secondary trigger,<sup>9</sup> at least one of the control measures listed above or other contingency measures that may be determined to be more appropriate based on the analyses performed.

North Carolina has also developed a tertiary trigger that will be a first alert as to a potential air quality problem on the horizon. This trigger will be activated when a monitor in the Area has a 4th highest value of 0.076 ppm or greater, starting the first year after the maintenance plan has been approved. The trigger date will be 60 days from the date that the State observes a 4th highest value of 0.076 ppm or greater at any monitor.

Once the tertiary trigger is activated, the Planning Section of the NC DAQ, in consultation with the SC DHEC and MCAQ, shall commence analyses including meteorological evaluation, trajectory analyses of high ozone days, and emissions inventory assessment to understand why a 4th highest exceedance of the standard has occurred. Once the analyses are completed, the NC DAQ will work with SC DHEC, MCAQ and the local air awareness program to develop an outreach plan identifying any additional voluntary measures that can be implemented. If the 4th highest exceedance occurs early in the season, the NC DAQ will work with entities identified in the outreach plan to determine if the measures can be implemented during the current season; otherwise, NC DAQ will work with SC DHEC, MCAQ, and the local air awareness coordinator to implement the plan for the following ozone season.

EPA has concluded that the maintenance plan adequately addresses the five basic components of a maintenance plan: the attainment emissions inventory, maintenance

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<sup>9</sup> On May 4, 2015, Sheila Holman, Director of NC DENR's Division of Air Quality sent an email to Lynorae Benjamin, Chief of the Region 4 EPA's Air Regulatory Management Section to confirm that the State will address and correct any violation of the 2008 8-Hour Ozone NAAQS as expeditiously as practicable and within 18-24 months from a trigger activation. A copy of this clarification email is in the docket for this rulemaking.



demonstration, monitoring, verification of continued attainment, and a contingency plan.

Therefore, the maintenance plan SIP revision submitted by North Carolina for the State's portion of the Area meets the requirements of section 175A of the CAA and is approvable.

## **VI. What is EPA's Analysis of North Carolina's Proposed NO<sub>x</sub> and VOC Sub-area MVEBs for the North Carolina Portion of the Area?**

Under section 176(c) of the CAA, new transportation plans, programs, and projects, such as the construction of new highways, must "conform" to (i.e., be consistent with) the part of the state's air quality plan that addresses pollution from cars and trucks. Conformity to the SIP means that transportation activities will not cause new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS or any interim milestones. If a transportation plan does not conform, most new projects that would expand the capacity of roadways cannot go forward. Regulations at 40 CFR part 93 set forth EPA policy, criteria, and procedures for demonstrating and assuring conformity of such transportation activities to a SIP. The regional emissions analysis is one, but not the only, requirement for implementing transportation conformity. Transportation conformity is a requirement for nonattainment and maintenance areas. Maintenance areas are areas that were previously nonattainment for a particular NAAQS but have since been redesignated to attainment with an approved maintenance plan for that NAAQS.

Under the CAA, states are required to submit, at various times, control strategy SIPs and maintenance plans for nonattainment areas. These control strategy SIPs (including RFP and attainment demonstration requirements) and maintenance plans create MVEBs (or in this case

sub-area MVEBs) for criteria pollutants and/or their precursors to address pollution from cars and trucks. Per 40 CFR part 93, a MVEB must be established for the last year of the maintenance plan. A state may adopt MVEBs for other years as well. The MVEB is the portion of the total allowable emissions in the maintenance demonstration that is allocated to highway and transit vehicle use and emissions. *See* 40 CFR 93.101. The MVEB serves as a ceiling on emissions from an area's planned transportation system. The MVEB concept is further explained in the preamble to the November 24, 1993, Transportation Conformity Rule (58 FR 62188). The preamble also describes how to establish the MVEB in the SIP and how to revise the MVEB.

As part of the interagency consultation process on setting sub-area MVEBs, the DAQ held three conference calls with the Charlotte Regional Transportation Planning Organization (CRTPO) - Rocky River Rural Planning Organization (RRRPO), Gaston-Cleveland-Lincoln Metropolitan Planning Organization (GCLMPO), and Cabarrus Rowan Metropolitan Planning Organization (CRMPO) to determine what years to set sub-area MVEBs for the Charlotte maintenance plan. According to the transportation conformity rule, a maintenance plan must establish MVEBs for the last year of the maintenance plan (in this case, 2026). *See* 40 CFR 93.118. The consensus formed during the interagency consultation process was that another MVEB should be set for the Charlotte maintenance plan base year of 2014.

Accordingly, NC DAQ established separate sub-area MVEBs based on the latest Metropolitan Planning Organization jurisdictional boundaries such that sub-area MVEBs are established for the CRMPO (Cabarrus and Rowan Counties), for the CRTPO-RRRPO (Iredell, Mecklenburg and Union Counties), and for the GCLMPO (Gaston and Lincoln Counties)

subareas. Although Cleveland County is included in the GCLMPO, it is not included in the Charlotte ozone nonattainment area.

Tables 6 through 8 below provide the NO<sub>x</sub> and VOC sub-area MVEBs in kilograms per day (kg/day),<sup>10</sup> for 2014 and 2026.

**Table 6. CRMPO Sub-area MVEBs (kg/day)**

	<b>2014</b>		<b>2026</b>	
	<b>NO<sub>x</sub></b>	<b>VOC</b>	<b>NO<sub>x</sub></b>	<b>VOC</b>
<b>Base Emissions</b>	11,814	7,173	3,124	3,135
<b>Safety Margin Allocated to MVEB</b>	-	-	625	627
<b>Conformity MVEB</b>	11,814	7,173	3,749	3,762

**Table 7. GCLMPO Sub-area MVEBs (kg/day)**

	<b>2014</b>		<b>2026</b>	
	<b>NO<sub>x</sub></b>	<b>VOC</b>	<b>NO<sub>x</sub></b>	<b>VOC</b>
<b>Base Emissions</b>	10,079	5,916	2,482	2,278
<b>Safety Margin Allocated to MVEB</b>	-	-	510	470
<b>Conformity MVEB</b>	10,079	5,916	2,992	2,748

**Table 8. CRTPO - RRRPO Sub-area MVEBs (kg/day)**

	<b>2014</b>		<b>2026</b>	
	<b>NO<sub>x</sub></b>	<b>VOC</b>	<b>NO<sub>x</sub></b>	<b>VOC</b>
<b>Base Emissions</b>	32,679	18,038	8,426	8,189
<b>Safety Margin Allocated to MVEB</b>	-	-	1,515	1,472
<b>Conformity MVEB</b>	32,679	18,038	9,941	9,661

<sup>10</sup> The conversion to kilograms used the actual emissions reported in the MOVES model. The conversion was done utilizing the “CONVERT” function in an EXCEL spreadsheet. The conversion factor is 907.1847.

As mentioned above, North Carolina has chosen to allocate a portion of the available 2026 safety margin to the NO<sub>x</sub> and VOC sub-area MVEBs for 2026. As discussed in section VI of this proposed rulemaking, a safety margin is the difference between the attainment level of emissions (from all sources) and the projected level of emissions (from all sources) in the maintenance plan. The attainment level of emissions is the level of emissions during one of the years in which the area met the NAAQS. As discussed above, North Carolina has selected 2014 as the base year.

Through this rulemaking, EPA is proposing to approve the sub-area MVEBs for NO<sub>x</sub> and VOC for 2014 and 2026 for the North Carolina portion of the bi-state Charlotte Area because EPA believes that the Area maintains the 2008 8-hour ozone NAAQS with the emissions at the levels of the budgets. Once the sub-area MVEBs for the North Carolina portion of the bi-state Charlotte Area are approved or found adequate (whichever is completed first), they must be used for future conformity determinations. After thorough review, EPA has preliminarily determined that the budgets meet the adequacy criteria, as outlined in 40 CFR 93.118(e)(4), and is proposing to approve the budgets because they are consistent with maintenance of the 2008 8-hour ozone NAAQS through 2026.

## **VII. What is the Status of EPA’s Adequacy Determination for the Proposed NO<sub>x</sub> and VOC Sub-area MVEBs for 2014 and 2026 for the North Carolina Portion of the Area?**

When reviewing submitted “control strategy” SIPs or maintenance plans containing MVEBs, EPA may affirmatively find the MVEB contained therein adequate for use in

determining transportation conformity. Once EPA affirmatively finds the submitted MVEB is adequate for transportation conformity purposes, that MVEB must be used by state and Federal agencies in determining whether proposed transportation projects conform to the SIP as required by section 176(c) of the CAA.

EPA's substantive criteria for determining adequacy of a MVEB are set out in 40 CFR 93.118(e)(4). The process for determining adequacy consists of three basic steps: public notification of a SIP submission, a public comment period, and EPA's adequacy determination. This process for determining the adequacy of submitted MVEBs for transportation conformity purposes was initially outlined in EPA's May 14, 1999, guidance, "Conformity Guidance on Implementation of March 2, 1999, Conformity Court Decision." EPA adopted regulations to codify the adequacy process in the Transportation Conformity Rule Amendments for the "New 8-Hour Ozone and PM<sub>2.5</sub> National Ambient Air Quality Standards and Miscellaneous Revisions for Existing Areas; Transportation Conformity Rule Amendments - Response to Court Decision and Additional Rule Change," on July 1, 2004 (69 FR 40004). Additional information on the adequacy process for transportation conformity purposes is available in the proposed rule entitled, "Transportation Conformity Rule Amendments: Response to Court Decision and Additional Rule Changes," 68 FR 38974, 38984 (June 30, 2003).

As discussed earlier, North Carolina's maintenance plan includes NO<sub>x</sub> and VOC sub-area MVEBs for the North Carolina portion of the bi-state Charlotte Area for 2014, an interim year of the maintenance plan, and 2026, the last year of the maintenance plan. EPA is reviewing the NO<sub>x</sub> and VOC sub-area MVEBs through the adequacy process. The North Carolina bi-state Charlotte Area NO<sub>x</sub> and VOC sub-area MVEBs, opened for public comment on EPA's adequacy

Web site on March 17, 2015, found at:

<http://www.epa.gov/otaq/stateresources/transconf/currrips.htm>. The EPA public comment period on adequacy for the sub-area MVEBs for 2014 and 2026 for the North Carolina portion of the bi-state Charlotte Area closed on April 16, 2015. No comments, adverse or otherwise, were received during EPA's adequacy process for the sub-area MVEBs associated with North Carolina's maintenance plan.

EPA intends to make its determination on the adequacy of the 2014 and 2026 sub-area MVEBs for the North Carolina portion of the bi-state Charlotte Area for transportation conformity purposes in the near future by completing the adequacy process that was started on March 17, 2015. After EPA finds the 2014 and 2026 sub-area MVEBs adequate or approves them, the new sub-area MVEBs for NO<sub>x</sub> and VOC must be used for future transportation conformity determinations. For required regional emissions analysis years that involve 2014 through 2026, the applicable 2014 sub-area MVEBs will be used and for 2026 and beyond, the applicable budgets will be the new 2026 sub-area MVEBs established in the maintenance plan, as defined in section VI of this proposed rulemaking.

### **VIII. What is the Effect of EPA's Proposed Actions?**

EPA's proposed actions establish the basis upon which EPA may take final action on the issues being proposed for approval today. Approval of North Carolina's redesignation request would change the legal designation of Mecklenburg County in its entirety, and the portion of Cabarrus, Gaston, Iredell, Lincoln, Rowan and Union Counties within the North Carolina portion of the bi-state Charlotte Area, as found at 40 CFR part 81, from nonattainment to attainment for

the 2008 8-hour ozone NAAQS. Approval of North Carolina's associated SIP revision would also incorporate a plan for maintaining the 2008 8-hour ozone NAAQS in the bi-state Charlotte Area through 2026 into the SIP. This maintenance plan includes contingency measures to remedy any future violations of the 2008 8-hour ozone NAAQS and procedures for evaluation of potential violations. The maintenance plan also establishes NO<sub>x</sub> and VOC sub-area MVEBs for 2014 and 2026 for the North Carolina portion of the bi-state Charlotte Area. The sub-area MVEBs are listed in Tables 6 through 8 in Section VI. Additionally, EPA is notifying the public of the status of EPA's adequacy determination for the newly-established NO<sub>x</sub> and VOC sub-area MVEBs for 2014 and 2026 for the North Carolina portion of the bi-state Charlotte Area.

## **IX. Proposed Actions.**

EPA is taking three separate but related actions regarding the redesignation and maintenance of the 2008 8-hour ozone NAAQS for the North Carolina portion of the bi-state Charlotte Area.

EPA proposes to determine that the Charlotte Area has attained the 2008 8-hour ozone standard by the July 20, 2015, required attainment date. EPA is proposing to determine that the entire bi-state Charlotte Area is attaining the 2008 8-hour ozone NAAQS, based on complete, quality-assured, and certified monitoring data for the 2012-2014 monitoring period. EPA is also proposing to approve the maintenance plan for the North Carolina portion of the Area, including the NO<sub>x</sub> and VOC sub-area MVEBs for 2014 and 2026, into the North Carolina SIP (under CAA section 175A). The maintenance plan demonstrates that the Area will continue to maintain the

2008 8-hour ozone NAAQS and that the budgets meet all of the adequacy criteria contained in 40 CFR 93.118(e)(4) and (5). Further, as part of this action, EPA is describing the status of its adequacy determination for the NO<sub>x</sub> and VOC sub-area MVEBs for 2014 and 2026 in accordance with 40 CFR 93.118(f)(1). Within 24 months from the effective date of EPA's adequacy determination for the MVEBs or the publication date for the final rule for this action, whichever is earlier, the transportation partners will need to demonstrate conformity to the new NO<sub>x</sub> and VOC sub-area MVEBs pursuant to 40 CFR 93.104(e).

Additionally, EPA is proposing to determine that the North Carolina portion of the bi-state Charlotte Area has met the criteria under CAA section 107(d)(3)(E) for redesignation from nonattainment to attainment for the 2008 8-hour ozone NAAQS. On this basis, EPA is proposing to approve North Carolina's redesignation request for the North Carolina portion of the bi-state Charlotte Area. If finalized, approval of the redesignation request would change the official designation of Mecklenburg County in its entirety, and a portion of Cabarrus, Gaston, Iredell, Lincoln, Rowan and Union Counties in North Carolina, as found at 40 CFR part 81, from nonattainment to attainment for the 2008 8-hour ozone NAAQS.

## **X. Statutory and Executive Order Reviews**

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for



areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA.

Accordingly, these proposed actions merely propose to approve state law as meeting Federal requirements and do not impose additional requirements beyond those imposed by state law. For this reason, these proposed actions:

- Are not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Are not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Do not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

## **List of Subjects**

### **40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

### **40 CFR Part 81**

Environmental protection, Air pollution control.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: May 13, 2015.

Heather McTeer Toney

Regional Administrator,

Region 4.

